

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

JUXTACOMM TECHNOLOGIES, INC.,

Plaintiff,

v.

ASCENTIAL SOFTWARE  
CORPORATION, et al.,

Defendants.

Civil Action No. 2:07-CV-359 LED

**JURY TRIAL DEMANDED**

**DECLARATION OF KELLY C. HUNSAKER IN SUPPORT OF  
MICROSOFT CORPORATION'S MOTIONS FOR  
SUMMARY JUDGMENT AND *DAUBERT* MOTIONS**

I, Kelly C. Hunsaker, declare as follows:

1. I am a principal at the law firm of Fish & Richardson P.C., counsel of record in this action for Defendant Microsoft Corporation. I am a member of the Bar of the State of California and am admitted pro hac vice to this Court. I have personal knowledge of the matters stated in this declaration and would testify to them under oath if called upon to do so.

2. Attached as **Exhibit A** is a true and correct copy of excerpts of the Initial Expert Report of Dr. Walter G. Rudd and attachments, dated on May 1, 2009.

3. Attached as **Exhibit B** is a true and correct copy of excerpts to the deposition transcript of Dr. Walter G. Rudd taken on July 9, 2009.

4. Attached as **Exhibit C** is a true and correct copy of United States Patent 6,195,662 (Ellis et al.) issued on February 27, 2001.

5. Attached as **Exhibit D** is a true and correct copy of the Order Granting the Request for Ex Parte Reexamination regarding United States Patent 6,195,662 (Ellis et al.), mailed on July 31, 2009 by the United States Patent and Trademark Office.

6. Attached as **Exhibit E** is a true and correct copy of excerpts to the Expert Report of Mr. Colin J. White served on May 1, 2009.

7. Attached as **Exhibit F** is a true and correct copy of excerpts to the Rebuttal Expert Report of Dr. Walter G. Rudd, dated June 16, 2009.

8. Attached as **Exhibit G** is a true and correct copy of excerpts to the Markman Hearing Transcript dated February 4, 2009.

9. Attached as **Exhibit H** is a true and correct copy of the unpublished opinion of *Lucent Technologies., Inc., et al. v. Gateway, Inc., et al.*, 2007 U.S. Dist. LEXIS 95934 (S.D. Cal. October 30, 2007).

10. Attached as **Exhibit I** is a true and correct copy of the unpublished opinion of *National Oilwell Varco, L.P. v. Pason Sys. USA Corp.*, 2009 U.S. Dist. LEXIS 41062 at \*4 (D. Co. April 30, 2009).

11. Attached as **Exhibit J** is a true and correct copy of Microsoft Corporation's Second Supplemental Responses to Plaintiff Juxtacomm's First Set of Common Interrogatories [No. 9], dated June 11, 2009.

12. Attached as **Exhibit K** is a true and correct copy of excerpts to the Expert Report of Mr. Michael J. Dansky, dated May 1, 2009.

13. Attached as **Exhibit L** is a true and correct copy of the Plaintiff's Objections and Responses to Microsoft Corporation's First Set of Interrogatories, dated April 2, 2009.

14. Attached as **Exhibit M** is a true and correct copy of excerpts to the deposition transcript of Mr. Michael J. Dansky, taken on July 31, 2009.

15. Attached as **Exhibit N** is a true and correct copy of a document from Microsoft Corporation titled, *Microsoft SQL Server 2005 Product Overview*, by Michelle Dumier, published April 2005, bearing production numbers MSJX0000107532 – 385.

16. Attached as **Exhibit O** is a true and correct copy of excerpts to the deposition transcript of Mr. Francois Ajenstat, taken January 6, 2009.

17. Attached as **Exhibit P** is a true and correct copy of a document by Gartner, Inc. titled *Business Intelligence Software Market Grows 12 Percent in 2004*, published August 15, 2005, bearing production numbers MSJX0000101066 – 069.

18. Attached as **Exhibit Q** is a true and correct copy of a document by Gartner, Inc. titled, *No Clear Winner in Overall RDBMS Market Share Race*, published May 23, 2005, bearing production numbers MSJX0000865321 – 324.

19. Attached as **Exhibit R** is a true and correct copy of a document by IDC titled, *Worldwide Data Warehouse Platform Software 2007 Vendor Shares*, dated August 2008, bearing production numbers MSJX0003084491 – 504.

20. Attached as **Exhibit S** is a true and correct copy of a document by IDC titled, *Worldwide Database Management 2007 Vendor Shares*, dated November 2008, bearing production numbers MSJX0003084471 – 490.

21. Attached as **Exhibit T** is a true and correct copy of a spreadsheet by Microsoft Corporation titled, *Market Revenue*, bearing production numbers MSJX0000985632 – 637.

22. Attached as **Exhibit U** is a true and correct copy of excerpts to the deposition transcript of Mr. Christopher A. Crawford, taken March 24, 2009.

23. Attached as **Exhibit V** is a true and correct copy of excerpts to the deposition transcript of Mr. Greg Meyer, taken March 25, 2009.

24. Attached as **Exhibit W** is a true and correct copy of excerpts to the deposition transcript of Mr. Tom P. Nash, taken June 11, 2009.

25. Attached as **Exhibit X** is a true and correct copy of a document by Gartner, Inc. titled, *Key Issues for Database Management Systems, 2007*, published April 30, 2007, bearing production numbers MSJX0000123686 – 691.

26. Attached as **Exhibit Y** is a true and correct copy of an e-mail from Mr. Francois Ajenstat to Herain Oberoi, Roel Decneut, and Ram Ramanathan, dated March 8, 2006 regarding US Database Tracker Results, bearing production numbers MSJX0001025600 – 611.

27. Attached as **Exhibit Z** is a true and correct copy of the unpublished opinion, *Volovik v. Bayer Corporation*, 2004 WL 51317 (D. Minn. January 7, 2004).

I declare under penalty of perjury that the foregoing is true and correct. Executed this 17<sup>th</sup> day of August, 2009 at Redwood City, California.

*/s/ Kelly C. Hunsaker*

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Kelly C. Hunsaker

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on August 17, 2009, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Kelly C. Hunsaker

Kelly C. Hunsaker

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